

Cestone, Paul

From: David DesRoches <davidoftherocks@gmail.com>
Sent: Monday, September 16, 2019 2:43 PM
To: Cestone, Paul
Cc: Sherlock, Scott; wfish@hinckleyallen.com; Dave Bahr
Subject: Re: Regarding FOIA EPA-HQ-2016-002082

Paul and Scott,

Would it be possible to look at this request again, and use different search terms to broaden it enough to potentially get some records? Please let me know at your earliest convenience.

I'm cc'ing Bill Fish, who was WNPR's attorney for this case when I was employed by the station, and Dave Bahr, who is assisting now that I am no longer with the station.

Thanks.

david

David DesRoches
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On Thu, Sep 5, 2019 at 4:56 PM David DesRoches <davidoftherocks@gmail.com> wrote:

Thanks, Paul. Scott, I'd definitely like to talk further about this. This request is almost four years old. You and I negotiated in good faith for six months after the request was made. We had agreed to a production schedule of about 100 to 150 documents per month. That was in the summer of 2016. But before any records were provided, Larry Gottesman got involved and suddenly the request was labeled too broad.

After two denials, three appeals, numerous phone calls and emails later, we negotiated further, and narrowed the request further. Even after that last narrowing, i was told the request was too broad. More negotiations took place, and finally, the last appeal was granted, and the denial overturned.

Even after that happened, there continued to be pushback. Finally, after more negotiations, phone calls, and emails, there was a search. Now, the search has no responsive records. In other words, the request was narrowed so much that it became essentially useless. I should reiterate, that this narrowed request was at first denied as being overly broad. How these two perspectives can coexist -- a request can be so narrowed that nothing is returned while at the same time being initially labeled overly broad -- is beyond me.

The names I used to narrow the request were my best guesses as to who would contact the EPA regarding PCBs. I have no access to personnel records at Monsanto or EPA. I have no inner knowledge of who does what. I did my best research to come up with names, which apparently was useless. Nearly four years later, and there are zero responsive records about one of the worst manmade chemicals on the planet, and no insight into how the only American company to produce this chemical has dealt with the government agency charged with regulating PCBs and enforcing PCB

compliance -- the same agency this company has pressured time and time again to relax its enforcement of other harmful chemicals, such as Roundup, Agent Orange, and DDT.

The EPA has a simple mission, and one that I believe in -- to protect human and environmental health. I understand this request is tough to fulfill. I know the agency is hamstrung, dealing with serious issues and budget cuts and everything else that threatens its vital role. I'm not trying to make the EPA look bad here. Far from it. I'm trying desperately to understand how we got to where we are with this terribly pervasive chemical. The public has a right to know how we got here, and I hope you would want to know, too.

Please, help me. I implore you from the depths of my soul. Send me some records. Some communications about PCBs. Please.

Let's talk more about this. Can we schedule a phone call?

Thanks.

david

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On Thu, Sep 5, 2019 at 4:33 PM Cestone, Paul <Cestone.Paul@epa.gov> wrote:

Mr. David DesRoches,

This email is to confirm that Office of Chemical Safety and Pollution Prevention's (OCSPP), Office of Pollution Prevention and Toxic's (OPPT), National Program Chemical's Division conducted an extensive search for communication between specific EPA management and individuals associated with the @monsanto.com. Email addresses were run through EPA's eDiscovery search tool which resulted in a compilation of 949 documents.

After reviewing all of the 949 documents there were documents collected that would otherwise be releasable, with or without without redactions. A few have personal phone numbers or the like and would require small redactions. A few document files actually contained nothing (are blank) and so reduce the total actual document count by a few. Also there were a considerable number of duplicate documents.

However, after two (repeated) reviews by myself and my supervisor and a review by OCSPP, there was not one document collected that was responsive to the FOIA inquiry you made. After an extensive search for the requested documents in records and files of the EPA's OPPT, no internally held non-publicly available documents were found that were responsive within the scope of this request.

Per FOIA policy, not to release non-responsive documents, I'm afraid that we have no further material to release.

If you have any questions or would like to discuss the FOIA search further, I can be reached at 202-566-0589. Scott Sherlock may be reached at 202-564-8257.

With regards, Paul Cestone

National Program Chemicals Division

Office of Pollution Prevention and Toxics

Phone 202-566-0489

Fax 202-566-0471

U.S. Environmental Protection Agency

5118 H, MC 7404-T

1200 Pennsylvania Avenue, NW

Washington, DC 20460

Scope of search

The Pre-Case Assessment for ED_002696A_EPA-HQ-2016-002082 - DesRoches FOIA re. communication between EPA and Monsanto is complete, please:

1. Confirm the search criteria listed below is correct; and
2. Confirm that the estimated results are acceptable to you and/or the subject matter expert for this matter. This estimate is being provided to allow you the opportunity, if needed, to further refine or adjust your search request, communicate with the requestor, and/or plan for the review of documents. If you have any questions, please feel free to reach out to Discovery Services (eDiscovery@epa.gov).

Once we receive your confirmation, we will proceed to execute the search. In addition, with respect to your requested deadline, since SharePoint automatically puts a date of 10 days out from when the request was submitted and that field is not always accurately entered initially, we kindly request that you please provide us with any pending discovery deadlines, court ordered deadlines, or a more accurate FOIA deadline date.

For a tentative timetable, we expect to deliver your results within 10 business days of your PCA approval. Any delay in your approval will adversely affect our ability to deliver your results in a timely manner. We plan a 10 business day delivery timeline under the assumption that there are no collection, processing, or network interruptions/errors. If these errors occur, it may also adversely impact our delivery timeline. Please reach out to us if you have any questions.

The initial search returned an estimated 493 hits and an additional 3540 items which were not searchable.

The 'hits' estimate represents emails or attachments in which one or more of the search terms or keywords submitted were found. This estimate only accounts for 'families', in which one more hit was found in the email and/or its attachments. That means it only counts 1 document or email, not the email and its attachments. Therefore, the final number of potentially responsive documents will likely be **2-3 times larger once loaded into the Relativity database**. Please note that this estimated number is subject to change at any time due to various factors on a live system.

The 3540 additional items which were not searchable (without additional processing that can be done at a later stage) represent those emails or attachments that are not text-searchable, such as image files or certain .PDF files. In addition, very large emails, attachments, or file types may not be searchable for this estimate. Once the search is approved and we proceed with the collection, it is our standard practice, unless instructed

otherwise, to collect these 3540 additional items and search them, with the same search terms/keywords, using a different tool. Any results from that search will be loaded into the Relativity database for review, along with the original 493 hits.

Upon Confirmation, Discovery Services will Collect the Following:

Outlook email for the following 6 custodians:

Blumenfeld, Jared

Fisher, Lindai

Jones, Jim

Lewis, Susan

Maddaloni, Mark

Rowland, Jess

Date Range:

1/1/2013 - 6/20/2019

Key Words:

@[monsanto.com](mailto:mon@monsanto.com)